

ORDINANCE NO. _____

An Ordinance Of The Board Of Supervisors Of The County Of Sonoma, State Of California, Adopting a Negative Declaration and Amending Text Of Chapter 26 (Zoning Ordinance) Of The Sonoma County Code To Allow Personal Cultivation of Cannabis and Permit Cultivation of Commercial Medical Cannabis and Support Land Uses in Various Zoning Districts, Adopting New Definitions and Establishing Special Use Regulations.

The Board of Supervisors of the County of Sonoma, State of California, ordains as follows:

SECTION I. Findings. The Board finds and declares the following:

- A. The adoption of this Ordinance is necessary and desirable to protect the public health, safety and environmental resources, ensure safe access to medical cannabis for patients, provide a regulatory path to permit an existing underground industry, foster a healthy, diverse and economically viable medical cannabis industry that contributes to the local economy, provide opportunity to help stabilize farm incomes, enhance enforcement methods for unpermitted and trespass cannabis cultivation, and ensure that environmental, public health, safety and nuisance factors related to the cannabis industry are adequately addressed.
- B. The Federal Controlled Substances Act, 21 U.S.C. §§ 801 et seq., classifies cannabis as a Schedule I Drug; as such, it is unlawful, under federal law, for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense, marijuana. There is no federal exemption for the cultivation, manufacture, distribution, dispensation, or possession of cannabis for medical purposes.
- C. In 1996, the voters of the State of California approved Proposition 215, “The Compassionate Use Act” (codified as Health and Safety Code Section 11362.5), which was intended to decriminalize cultivation and possession of medical marijuana by a seriously ill patient, or the patient’s primary caregiver, for the patient’s personal use, and to create a limited defense to the crimes of possessing or cultivating cannabis. The Compassionate Use Act further provided that nothing in it shall be construed to supersede legislation prohibiting persons

from engaging in conduct that endangers others, or to condone the diversion of cannabis for non-medical purposes.

- D. The State enacted SB 420 in 2004 (known as the “Medical Marijuana Program Act”, codified as Health and Safety Code Section 11362.7 et seq.) to expand and clarify the scope of The Compassionate Use Act of 1996 by creating the Medical Marijuana Identification Card program, creating reasonable regulations for cultivating, processing, transporting and administering medical cannabis, as well as limiting the amount of medical cannabis a qualified individual may possess.
- E. The Medical Marijuana Program Act defines a “primary caregiver” as an individual who is designated by a qualified patient or by a person with an identification card, and who has consistently assumed responsibility for the housing, health, or safety of that patient or person and is further defined in the California Supreme Court decision *People v. Mentch* (2008) 45 Cal.4th 274.
- F. The Sonoma County Board of Supervisors adopted Medical Marijuana Possession and Cultivation Guidelines on September 26, 2006 by Resolution 06-0846. The Guidelines provide a limited defense to prosecution or other sanction by the County of Sonoma which is only available to someone who possesses or cultivates marijuana for personal medical use. These Guidelines are not zoning code regulations, and they do not allow and do not regulate any manner of cultivation, growing, or delivery of marijuana.
- G. The State enacted the Medical Marijuana Regulation and Safety Act (MMRSA) on September 11, 2015 (SB 643, AB 266, and AB 243), instituting a comprehensive state-level licensure and regulatory scheme for cultivation, manufacturing, distribution, transportation, laboratory testing, and dispensing of medical cannabis through numerous changes and additions to the Business & Professions Code and the Health and Safety Code. MMRSA legalizes and regulates for-profit commercial activity related to medical marijuana in California. MMRSA provides that cities and counties retain local regulatory authority over medical cannabis.
- H. On June 27, 2016 the Governor signed SB 837, changing the term “marijuana” to “cannabis” and renaming the Medical Cannabis Regulation and Safety Act (Cannabis Act).
- I. The State’s adoption of a comprehensive statewide licensing and enforcement

scheme for medical cannabis operations will facilitate local jurisdictions to regulate medical cannabis at the local level, and permit fees will help pay for additional enforcement staff.

- J. Although Sonoma County's zoning ordinance does not permit cannabis cultivation or other medical cannabis activities besides dispensaries within the unincorporated area of the County, there are an estimated several thousand unregulated cannabis cultivation sites within the County that are unlawful under the permissive zoning of the County Code. The County has long had insufficient resources to bring code enforcement or nuisance actions against the vast majority of these cultivation sites.
- K. On February 2, 2016, the Board of Supervisors, at an open public meeting, directed staff to bring forward a zoning ordinance allowing but regulating cannabis cultivation and related commercial support uses within the jurisdictional boundaries of Sonoma County.
- L. On November 8, 2016 the voters of California adopted Proposition 64 which legalized the use of cannabis for adult use and established a maximum cultivation allowance of 6 plants for personal use. The Proposition allows for local control of adult use cannabis land uses, and reasonable regulation of personal cultivation of up to 6 plants per residence.
- M. Children (minors under the age of 18) are particularly vulnerable to the effects of cannabis use, and the presence of cannabis plants or products is an attractive nuisance for children, creating an unreasonable hazard in areas frequented by children (including schools, parks, and other similar locations).
- N. The unregulated cultivation of cannabis in the unincorporated area of Sonoma County can adversely affect the health, safety, and well-being of the County, its residents and environment. Comprehensive civil regulation of premises used for cannabis cultivation, including zoning regulation, is proper and necessary to reduce the risks of criminal activity, degradation of the natural environment, malodorous smells, and indoor electrical fire hazards that may result from unregulated cannabis cultivation.

- O. Comprehensive regulation of premises used for cannabis cultivation or commercial activities related to cannabis is proper and necessary to address the risks and adverse impacts as stated herein.
- P. Outdoor cannabis cultivation, especially within the remote hillside areas, is creating devastating impacts to California's surface and groundwater resources. The State Water Resources Control Board, the North Coast Regional Water Quality Control Board, the Central Valley Regional Water Quality Control Board and the Department of Fish and Wildlife have seen a dramatic increase in the number of cannabis cultivation operations, and corresponding increases in impacts to water supply and water quality, including the discharges into water of sediments, pesticides, fertilizers, petroleum hydrocarbons, trash and human waste. These impacts result from unpermitted and unregulated timber clearing, road development, stream diversion for irrigation, land grading, erosion of disturbed surfaces and stream banks, and temporary human occupancy without proper sanitary facilities.
- Q. The defense to prosecution provided to qualified patients and their primary caregivers under the Compassionate Use Act and the Board's prior Resolution to cultivate cannabis plants for medical purposes does not confer the right to establish a land use not expressly allowed in zoning or to create or maintain a public nuisance. By adopting the regulations contained in this Ordinance in coordination with the Cannabis Act, the County intends to minimize the risks and complaints regarding fire, odor, crime and pollution caused or threatened by the unregulated cultivation of cannabis in the unincorporated area of Sonoma County.
- R. Nothing in this Ordinance shall be construed to allow the use of cannabis or allow any activity relating to the cultivation or consumption of cannabis that is otherwise not expressly allowed in the Sonoma County Code or is illegal under State law.
- S. This ordinance is intended to be Phase I of this policy effort to provide an initial opportunity to legalize existing unpermitted medical cannabis operations, where appropriate and steer the industry to appropriate locations. The Board may consider expanded opportunities for additional commercial cannabis operations in Phase II.

- T. This ordinance is consistent with the overall goals, objectives, policies and programs of the General Plan to promote a healthy and competitive agricultural, stabilize farm incomes and provide opportunities for diversification of agricultural products; protect Important Farmlands; preserve biotic resources; promote energy conservation and use of renewable energy; minimize discharge of sediment, waste and other pollutants into the drainage systems; protect groundwater resources; encourage graywater systems and use of recycled water.
- U. An Initial Study and Negative Declaration were prepared and circulated to the public for a 30-day period from September 30 to October 31, 2016. The Negative Declaration has been reviewed and considered, together with comments received during the public review process, in accordance with the California Environmental Quality Act (CEQA) and County CEQA Guidelines. The Board finds on the basis of the whole record before it that the Negative Declaration reflects the independent judgment and analysis of the Board and that there is no substantial evidence that the project will have a significant effect on the environment. The Director of Permit and Resource Management Department is directed to file a Notice of Determination in accordance with CEQA.

SECTION II. Chapter 26 of the Sonoma County Code is amended as follows:

- A. **Amendments to Definitions.** Section 26-02-140 (Definitions) of Chapter 26 of the Sonoma County Code (Zoning Ordinance) is amended to replace and add the following definitions as shown in Exhibit A attached hereto.
- B. **Amendments to Zoning Districts for Commercial Medical Cannabis Uses.** The following Subsections of Chapter 26 of the Sonoma County Code are added for Permitted Uses:

Section 26-04-010 (o) – LIA Land Intensive Agriculture District
Section 26-06-010 (s) – LEA Land Extensive Agriculture District
Section 26-08-010 (r) – DA Diverse Agriculture District
Section 26-10-010 (ll) – RRD Rural and Resource Development District
Section 26-44-020 (u) – MP Industrial Park
Section 26-46-020 (t) – M1 Limited Urban Industrial
Section 26-48-020 (y) – M2 Heavy Industrial

Section 26-50-020 (r) – M3 Limited Rural Industrial

to read as follows:

“Commercial cannabis medical uses in compliance with Section 26-88-250 through 256”

- C. The following Subsections of Chapter 26 of the Sonoma County Code are added for Uses Permitted with a Use Permit:

Section 26-04-020 (r) – LIA Land Intensive Agriculture

Section 26-06-020 (t) – LEA Land Extensive Agriculture

Section 26-08-020 (t) – DA Diverse Agriculture

Section 26-10-020 (tt) – RRD Rural and Resource Development

Section 26-16-020 (z) – AR Agriculture and Residential

Section 26-18-020 (y) – RR Rural Residential

Section 26-44-020 (q) – MP Industrial Park

Section 26-46-020 (aa) – M1 Limited Urban Industrial

Section 26-48-020 (z) – M2 Heavy Industrial

Section 26-50-020 (aa) – M3 Limited Rural Industrial

Section 26-34-020 (II)- C3 General Commercial District

Section 26-36-020 (qq) – LC Limited Commercial

to read as follows:

“Commercial cannabis medical uses in compliance with Section 26-88-250 through -256”

- D. **Standards for Commercial Cannabis Medical Uses.** Article 88 of Chapter 26 of the County Code is hereby amended to add Subsection 26-88-250 – 256 (Cannabis Cultivation and Related Land Uses) as shown in Exhibit B attached hereto.

- E. **Medical Cannabis Dispensaries.** The following Subsections of Chapter 26 of the Sonoma County Code are amended

Section 26-30-020 (z) – C1 Neighborhood Commercial

Section 26-32-020 (ee) – C2 Retail Business and Service
Section 26-36-020 (oo) – LC Limited Commercial

to read as follows:

“Medical Cannabis Dispensary, in compliance with Section 26-88-250 and 256”

The following Subsections are deleted in their entirety

Section 26-32-020 (ff) – C2 Retail Business and Service
Section 26-36-020 (pp) – LC Limited Commercial

- F. Medical Cannabis Dispensary.** Article 88 of Chapter 26 of the County Code is hereby amended to delete Subsection 26-88-126 Medical Cannabis Dispensary in its entirety and replaced to add Subsection 26-88-256 Medical Cannabis Dispensary to read as shown in Exhibit C attached hereto.

- G. Amendments to Zoning Districts for Personal Cannabis Use.** The following Subsections of Chapter 26 of the Sonoma County Code are added for Permitted Uses:

Section 26-04-010 (n) – LIA Land Intensive Agriculture District
Section 26-06-010 (r) – LEA Land Extensive Agriculture District
Section 26-08-010 (q) – DA Diverse Agriculture District
Section 26-10-010 (kk) – RRD Rural and Resource Development District
Section 26-16-010 (ff) – AR Agriculture and Residential District
Section 26-18-010 (bb) – RR Rural Residential
Section 26-20-010 (z) – R1 Low Density Residential District
Section 26-22-010 (u) – R2 Medium Density Residential District
Section 26-24-010 (z) – R3 High Density Residential District
Section 26-26-010 (t) (8) – PC Planned Community

to read as follows:

“Cannabis cultivation for personal use in compliance with Section 26-88-258”

H. **Standards for Personal Cannabis Use.** Article 88 of Chapter 26 of the County Code is hereby amended to add Subsection 26-88-258 (Cannabis Cultivation and Related Land Uses) as shown in Exhibit D attached hereto.

I. **Amendments to Zoning Districts for Internal Consistency.** The following Subsections of Chapter 26 of the Sonoma County Code are amended for Permitted Uses:

Section 26-04-010 (d) – LIA Land Intensive Agriculture District
Section 26-06-010 (d) – LEA Land Extensive Agriculture District
Section 26-08-010 (d) – DA Diverse Agriculture District
Section 26-10-010 (d) – RRD Rural and Resource Development District
Section 26-16-010 (h) – AR Agriculture and Residential District
Section 26-18-010 (e) – RR Rural Residential

to read as follows:

“Outdoor crop production including wholesale nurseries, for growing and harvesting of shrubs, plants, flowers, trees, vines, fruits, vegetables, hay, grain and similar food and fiber crops other than cannabis, conducted and maintained in compliance with Article 65, RC Riparian Corridor Combining Zone;”

J. The following Subsections of Chapter 26 of the Sonoma County Code are added for Permitted Uses:

Section 26-04-010 (o) – LIA Land Intensive Agriculture District
Section 26-06-010 (s) – LEA Land Extensive Agriculture District
Section 26-08-010 (r) – DA Diverse Agriculture District

to read as follows:

“Indoor crop production including wholesale nurseries for growing and harvesting of shrubs, plants, flowers, trees, vines, fruits, vegetables, hay, grain and similar food and fiber crops other than cannabis, in greenhouses or similar structures less than twenty five hundred (2,500) square feet, conducted and maintained in compliance with Article 65, RC Riparian Corridor Combining Zone”;

- K. The following Subsections of Chapter 26 of the Sonoma County Code are amended for Permitted Uses:

Section 26-10-010 (e) – RRD Rural and Resource Development District
Section 26-16-010 (i) – AR Agriculture and Residential District
Section 26-18-010 (g) – RR Rural Residential

to read as follows:

“Indoor growing and harvesting of shrubs, plants, flowers, trees, vines, fruits, vegetables, hay, grain and similar food and fiber crops other than cannabis, in greenhouse or similar structures less than eight hundred (800) square feet, conducted and maintained in compliance with Article 65, RC Riparian Corridor Combining Zone;”

- L. The following Subsections of Chapter 26 of the Sonoma County Code are amended for Uses Permitted with a Use Permit:

Section 26-10-020 (h) – RRD Rural and Resource Development District
Section 26-16-020 (d) – AR Agriculture and Residential District

to read as follows:

“Indoor growing and harvesting of shrubs, plants, flowers, trees, vines, fruits, vegetables, hay, grain and similar food and fiber crops other than cannabis, in greenhouses or similar structures of eight hundred (800) square feet or more, conducted and maintained in compliance with Article 65, RC Riparian Corridor Combining Zone;”

SECTION III. Transition Period. This ordinance hereby supersedes Resolution 06-0846. Existing cannabis cultivation cooperatives or collectives that demonstrate to the review authority that they were in operation before January 1, 2016 shall have until January 1, 2018 to come into compliance with this ordinance, provided that there has been no increase in the size of the cultivation area and the operations are in compliance with the best management practices and the operating standards.

SECTION IV. Adult Use of Marijuana Act. Chapter 26 of the County Code (Zoning Ordinance) is a permissive ordinance and the amendments adopted herein do not confer any rights or permits related to non-medical commercial cannabis uses, unless expressly stated as an allowed use in the zoning ordinance.

SECTION V. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion(s) of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION VI. Effective Date. This Ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage. This Ordinance shall be published once before the expiration of fifteen (15) days after adoption, with the names of the Supervisors voting for or against the same, in *The Press Democrat*, a newspaper of general circulation published in the County of Sonoma, State of California. Pursuant to Government Code Section 25124, complete copies of Exhibits “A”, “B”, “C” and “D” to this ordinance are on file with the Clerk of the Board of Supervisors and are available for public inspection and copying during regular business hours in the office of the Clerk of the Board of Supervisors, 575 Administration Drive, Room 100A, Santa Rosa, California. Complete copies of the Exhibits are also available for public review on the County’s website at:
<http://sonomacounty.ca.gov/CAO/Cannabis/Proposed-Cannabis-Ordinance/>

Applications for Commercial Cannabis Uses, other than Commercial Medical Cannabis Dispensaries in compliance with Section 26-88-250 and 256 shall not be accepted until a proposed Commercial Cannabis Tax is approved by the voters of Sonoma County, or a funding source has been established to provide the public service and code enforcement capacity to implement this ordinance.

SECTION VII. Custodian of Documents. The Clerk of the Board of Supervisors shall be the custodian of the documents and other materials which constitute the record of the proceedings upon which the Board’s decision is based. These documents may be found at the office of the Clerk of the Board, 575 Administration Drive, Room 100-A, Santa Rosa, California 95403.

IN REGULAR SESSION of the Board of Supervisors of the County of Sonoma, introduced, passed, and adopted this ____ day of _____, 2016, on regular roll call of the members of said Board by the following vote:

Supervisors:

Gorin:	Rabbit:	Zane:	Gore:	Carrillo:
Ayes:	Noes:	Absent:	Abstain: 0	

So Ordered.

WHEREUPON, the Chair declared the above foregoing Ordinance duly adopted and

SO ORDERED.

Chair, Board of Supervisors
County of Sonoma

ATTEST:

Sheryl Bratton
Clerk of the Board of Supervisors

ATTACHMENTS

Exhibit A – Definitions Section 26-02-140
Exhibit B – Commercial Cannabis Medical Uses Section 26-88-250 through 254
Exhibit C – Medical Cannabis Dispensary Section 26-88-256
Exhibit D – Personal Cannabis Use Section 26-88-258

Amendments to Definitions in Section 26-02-140

Section 26-02-140 Definitions of the Sonoma County Code is amended to delete or replace certain definitions and add definitions in alphabetical order to read as shown below:

SECTION 1: The following definitions shall be replaced to read as follows:

Agricultural crop: Any cultivated crop grown and harvested for commercial purposes, except for cannabis and other controlled substances, which are defined and classified separately.

Agricultural cultivation: The act of preparing the soil for the raising of agricultural crops, as defined herein.

Cannabis Dispensary: a facility operated in accordance with state law, where medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers medical cannabis or medical cannabis products as part of a retail sale.

SECTION 2: The following definitions are added in their alphabetical order to read as follows:

Agency Having Jurisdiction: The agency having delegated authority to adopt, determine, mandate or enforce ordinances and regulatory requirements established by the County of Sonoma and other jurisdictional governing bodies.

Cannabis: All parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds thereof. "Cannabis" also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. For the purpose of this section, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code. Cannabis is classified as an agricultural product separately from other agricultural crops.

Cannabis Cultivation: Any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis for medical use, including nurseries, that is intended to be transported, processed, distributed, dispensed, delivered, or sold in accordance with the Medical Cannabis Regulation and Safety Act (MCRSA) for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.

Cannabis Cultivation Area: The total aggregate area(s) of cannabis cultivation on a single premise as measured around the outermost perimeter of each separate and discrete area of cannabis cultivation at the dripline of the canopy expected at maturity and includes, but is not limited to, the space between plants within the cultivation area, the exterior dimensions of garden beds, garden plots, hoop houses, green houses, and each room or area where cannabis plants are grown, as determined by the review authority.

Cannabis Cultivation – Indoor: Cultivation of cannabis using exclusively artificial lighting.

Cannabis Cultivation - Mixed-Light: Cultivation of cannabis using any combination of natural and supplemental artificial lighting. Greenhouses, hoop houses, hot houses and similar structures or light deprivation systems are included in this category.

Cannabis Cultivation – Outdoor: Cultivation of cannabis using no artificial lighting conducted in the ground or in containers outdoors with no covering. Outdoor cultivation does not include greenhouses, hoop houses, hot houses or similar structures.

Cannabis Cultivation Site: The premise(s), leased area(s), property, location or facility where medical cannabis is planted, grown, harvested, dried, cured, graded, or trimmed or that does all or any combination of those activities.

Cannabis Cultivation Type: The type of cultivation is classified as outdoor, indoor or mixed-light as defined herein, consistent with the state licensing scheme.

Cannabis Distribution Facility: The location or a facility where a person conducts the business of procuring medical cannabis from licensed cultivators or manufacturers for sale to licensed dispensaries, and the inspection, quality assurance, batch testing by a Type 8 licensee, storage, labeling, packaging and other processes prior to transport to licensed dispensaries. This Facility requires a Type 11 license pursuant to the Medical Cannabis Regulation and Safety Act (MCRSA).

Cannabis Licensee: A person issued a state license under the Medical Cannabis Regulation and Safety Act to engage in commercial cannabis activity.

Cannabis Manufacturer: A person that produces, prepares, propagates, or compounds manufactured medical cannabis, or medical cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages medical cannabis or medical cannabis products or labels or relabels its container, that holds a valid state license and that holds a valid local license or permit.

Manufactured cannabis means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.

Cannabis Manufacturing: A location that produces, prepares, propagates, or compounds manufactured medical cannabis or medical cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a licensee for these activities.

Cannabis – Medical: Any product containing cannabis, including but not limited to flowers, buds, oils, tinctures, concentrates, extractions, and edibles intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code. For the purposes of this chapter, medical cannabis does not include industrial hemp as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

Cannabis Nursery: A location that produces cannabis clones, immature plants, and seeds for wholesale distribution, used specifically for the planting, propagation, and cultivation of medical cannabis.

Cannabis Operator: The person engaged in the conduct of any commercial cannabis use.

Cannabis product, medical cannabis, or medical cannabis product: Any product containing cannabis, including but not limited to flowers, buds, oils, tinctures, concentrates, extractions, and edibles intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code. For the purposes of this chapter, medical cannabis does not include industrial hemp as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

Crop production: The commercial growing and harvesting of agricultural crops including horticultural or ornamental shrubs, plants, flowers, trees, vines, fruits, vegetables, hay, grain and similar food and fiber crops or agricultural commodities, except for cannabis or other controlled substances, which shall be defined and classified separately.

Person: An individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, tribe, or any other group or combination acting as a unit and includes the plural as well as the singular number.

Premise(s): A legal parcel, or a leasehold interest in land, or a leased or owned space in a building.

Cannabis license: A state license issued pursuant to the Medical Cannabis Regulation and Safety Act (MCRSA).

Greenhouse: A temporary or permanent structure, including hothouses, hoop houses and similar structures for the covered propagation and growing of plants, constructed with a translucent roof and/or walls.

Marijuana: See Cannabis

Medical Marijuana: See Cannabis – Medical

Nursery – Wholesale Greenhouse: An establishment engaged in the commercial production of trees, plants, seeds, stock, and other vegetation grown within a commercial greenhouse for wholesale distribution to other businesses. Wholesale greenhouse nursery does not include cannabis nurseries which are classified separately.

Nursery – Wholesale: An establishment engaged in the commercial production of trees, plants, seeds, stock, and other vegetation grown on site outdoors either in the ground or in containers for wholesale distribution to other businesses. Wholesale nursery does not include cannabis nurseries which are classified separately. Wholesale nursery may include greenhouses up to 2,500 square feet in size.

Nursery – Retail: An establishment engaged in the propagation of trees, shrubs and horticultural and ornamental plants grown under cover or outdoors for sale to the public. Includes commercial scale greenhouses and establishments for the sale of plant materials, lawn and garden supplies, and related items. Retail nursery does not include cannabis nurseries which are classified separately.

Nursery – Cannabis: An establishment that produces only clones, immature plants, and seeds for wholesale distribution to permitted cultivators or dispensaries, used specifically for the planting, propagation, and cultivation of medical cannabis.

Review Authority. The individual or official County body (the Director, Commission, or Board) and others as identified in the County Code as having the responsibility and authority to review and approve or deny land use permit applications.

Volatile solvent: Volatile solvents may include but is not limited to: (1) explosive gases, such as Butane, Propane, Xylene, Styrene, Gasoline, Kerosene, O₂ or H₂; and (2) dangerous poisons, toxins, or carcinogens, such as Methanol, Methylene Chloride, Acetone, Benzene, Toluene, and Tri-chloro-ethylene as determined by the Fire Marshall.

Section 26-88-250 Commercial Cannabis Uses - Medical

- (a) **Purpose.** This section provides the development and operating standards for personal and commercial medical cannabis uses to ensure neighborhood compatibility, minimize potential environmental impacts, provide safe access to medicine and provide opportunities for economic development.
- (b) **Applicability.** Medical cannabis uses shall be permitted only in compliance with the requirements of Sections 26-88-250 through 256 and all other applicable requirements for the specific type of use and those of the underlying base zone.
- (c) **Limitations on Use.** Medical cannabis uses shall only be allowed in compliance with the following sections and all applicable codes set forth in the County Code, including but not limited to, grading, building, plumbing, septic, electrical, fire, hazardous materials, and public health and safety. The operator shall comply with all laws and regulations applicable to the type of use and shall comply with all permit, license, approval, inspection, reporting and operational requirements of other local, state or other agencies having jurisdiction over the type of operation. The operator shall provide copies of other agency and department permits, licenses, or certificates to the review authority to serve as verification for such compliance. Permits for medical cannabis uses shall only be issued where written permission from the property owner or landlord is provided. Tasting, promotional activities and events related to cannabis uses are prohibited. Commercial cannabis uses for non-medical cannabis for adult use is prohibited.
- (d) **Permit Requirements.** Medical cannabis uses shall be subject to the land use permit requirements as shown in Table 1A-D Allowed Medical Cannabis Uses and Permit Requirements. No other type of cannabis uses are permitted except as specified in Table 1A-D. The county may refuse to issue any discretionary or ministerial permit, license, variance or other entitlement, which is sought pursuant to this chapter, including zoning clearance for a building permit, where the property upon which the use or structure is proposed is in violation of the County Code. Medical cannabis uses shall also be subject to permit requirements and regulations established by the Sonoma County Department of Health Services.
- (e) **Term of Permit.** Permits for medical cannabis uses shall be issued to the operator for a period not to exceed one year from the date of permit approval and shall be subject to annual permit renewals. The operator must apply for permit renewal prior to the expiration of the limited term permit. No property interest, vested right, or entitlement to receive a future permit to operate a medical cannabis use shall ever inure to the benefit of such permit holder as such permits are revocable.
- (f) **Health and Safety.** Medical cannabis uses shall not create a public nuisance or adversely affect the health or safety of the nearby residents or businesses by creating

dust, light, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, unsafe conditions or other impacts, or be hazardous due to the use or storage of materials, processes, products, runoff or wastes.

(g) **Taxes.** Medical cannabis uses shall comply with any additional taxes that may be enacted by the voters or any additional regulations that may be promulgated.

(h) **Operator Qualifications.** Commercial medical cannabis operators must meet the following qualifications:

1. Commercial medical cannabis operators and all employees must be 21 years of age.
2. Commercial medical cannabis operators shall be subject to background search by the California Department of Justice. Permits for commercial medical cannabis operations shall not be permitted for operators with felony convictions, as specified in subdivision (c) of Section 667.5 of the Penal Code and subdivision (c) of Section 1192.7 of the Penal Code.
3. Applicants providing false or misleading information in the permitting process will result in rejection of the application and/or nullification or revocation of any issued permit.
4. Priority processing of permits for medical cannabis operations shall be given to:
 - a. Applications that demonstrate that the person operating the cannabis use or owner(s) of the cannabis use has been an existing cannabis operator in Sonoma County prior to January 1, 2016.
 - b. Applications that demonstrate that the person operating the cannabis use or owner(s) of the cannabis use have been a resident of Sonoma County prior to January 1, 2016.
 - c. Applications that provide a local preference hiring plan.

(i) **Weights and Measures.** All scales used for commercial transactions shall be registered for commercial use and sealed by the Department of Agriculture/Weights and Measures.

(j) **Tracking.** Commercial medical cannabis operators shall comply with any track and trace program established by the County and state agencies. Commercial medical cannabis operators must maintain records tracking all medical cannabis production and products and shall make all records related to commercial medical cannabis activity available to the County upon request.

(k) **Inspections.** Commercial medical cannabis operations shall be subject to inspections by appropriate local and state agencies, including but not limited to the Departments of

Health Services, Agriculture/Weights & Measures, and Permit and Resource Management. Medical cannabis operations shall be inspected at random times for conformance with the County Code and permit requirements. The inspection shall be conducted during regular business hours, with at least 24-hours' notice. If interference in the performance of the duty of the agency having jurisdiction occurs, the agency may temporarily suspend the permit and order the medical cannabis operation to immediately cease operations.

- (l) **Monitoring.** Monitoring shall be required for each medical cannabis operation to be granted a permit. An annual fee may be adopted by the board of supervisors and collected by the agency having jurisdiction or the county tax collector to pay for monitoring and enforcement.

Section 26-88-252 Enforcement.

(a) Violations.

1. Any activity performed contrary to the provisions of Sections 26-88-250 through 258 is hereby declared to be a violation of this Chapter and a public nuisance.
2. Any violation of a term, condition, or the approved plans and specifications of any permit issued pursuant to Sections 26-88-250 through 258 shall constitute a violation of this Chapter.
3. Each and every day during any portion of which any violation of Sections 26-88-250 through 258 or any permit issued pursuant to this Chapter is committed, continued, or allowed to continue shall be a separate offense.

- (b) **Enforcement.** Complaints regarding cannabis operations will be addressed by the agency having jurisdiction which may conduct an investigation to determine whether there was a violation of the County Code, a zoning standard, or a use permit condition. Sheriff reports, online searches, citations, aerial photos or neighbor documentation may constitute proof of a violation.

If the agency having jurisdiction verifies that a medical cannabis use is operating in violation of the County Code, is otherwise unpermitted, or that a violation of any permit condition has occurred, a notice of violation pursuant to Section 1-7.3 of the County Code or an administrative citation pursuant to this Section may be issued. At the discretion of the agency having jurisdiction or upon appeal, the zoning permit or use permit may be scheduled for a revocation or appeal hearing with the board of zoning adjustments pursuant to Chapter 26 or a revocation or appeal hearing pursuant to Chapter 11. If the permit is revoked, a zoning or use permit for a cannabis operation may not be reapplied for or issued for a period of at least two (2) years.

Additionally, where the agency having jurisdiction has evidence that a violation of Sections 26-88-250 through 258 poses a significant health or safety hazard to the owners or occupants of adjoining properties or to the surrounding community, or for other good cause shown, the agency having jurisdiction may, in its discretion, commence a judicial action to enjoin such violation without the necessity of first going through the administrative procedures set forth in Section 1-7.3 of the County Code.

- (c) **Investigative and Prosecutorial Discretion.** The agency having jurisdiction shall have discretion to investigate or prosecute any potential violation.

- (d) **Suspension, Revocation or Modification.** Any permit, license or approval issued pursuant to this chapter may be suspended, revoked, or modified by the agency having jurisdiction, if the agency determines any of the following:
1. Circumstances under which the permit was granted have changed and the public health, safety, and welfare require the suspension, revocation, or modification;
 2. The permit was granted, in whole or in part, on the basis of a misrepresentation or omission of a material statement in the permit application; or
 3. One (1) or more of the conditions of the original permit have not been substantially fulfilled or have been violated.
- (e) **Appeals.** Permits issued by the Department of Agriculture/Weights & Measures shall be subject to review and appeal procedures pursuant to Chapter 11. Permits issued by PRMD shall be subject to review and appeal procedures pursuant to Chapter 26 or Chapter 1 as determined by director. The revocation of any permit issued pursuant to this Chapter shall have the effect of terminating the permit and denying the privileges granted by the permit.
- (f) **Administrative Remedies.** This Section is not intended to, and does not, establish any criminal liability. This Section provides administrative remedies for any violation of this Section related to all cannabis uses. A violation of this Section shall be subject to all civil enforcement and abatement methods, including the administrative procedure set forth in Section 1-7.3 of the County Code. The remedies provided for in this Section shall be cumulative and not exclusive.
1. Enhanced penalty for non-permitted operations. A cannabis operation that is determined by the agency having jurisdiction to be operating without the necessary permit required under this section shall also be subject to a penalty of ten (10) times the normal application fee.
 2. Administrative Citations. In addition to all other legal remedies, criminal or civil, which may be pursued by the county to address any violation of the County Code, this subsection provides for administrative citations, in the following amounts, adopted pursuant to the authority conferred by the Government Code, including Section 53069.4. Violations of any provision of the County Code, permit, license or approvals are subject to administrative citation. Each act, omission, or condition may be cited as a separate violation and each violation that continues, exists, or occurs on more than one day may constitute a separate violation on each day, at the discretion of the agency having jurisdiction.

Cannabis Administrative Citation Schedule

Violation	First Offense	Second Offense	Third Offense
Exceedance of Allowed or Permitted Cultivation Area	\$20 per square foot	\$30 per square foot	\$50 per square foot
Non-compliance with a Standard or Condition	\$1,000	\$5,000	\$10,000
Unpermitted Cannabis Use other than cultivation area	\$10,000	\$25,000	\$50,000

3. Civil Penalties. In addition to any and all other costs, fees, penalties and expenses which may be assessed or imposed as a result of violation of this Chapter, any person who violates any provision of this Chapter shall be liable and responsible for, and shall pay to the County the following penalties, as determined by the agency having jurisdiction.
- i. For each unpermitted cannabis use, no more than ten thousand dollars (\$10,000) for the first violation; no more than twenty-five thousand dollars (\$25,000) for the second violation within two (2) years; and no more than fifty thousand dollars (\$50,000) for the third violation within three (3) years.
 - ii. No more than one thousand dollars (\$1,000.00) per day for the first violation; no more than two thousand dollars (\$2,000.00) per day for a second violation within two (2) years; and no more than five thousand dollars (\$5,000.00) per day for each additional violation within two (2) years for each day that the violation exists after the date of mailing or hand delivery of a notice of violation or a notice and order through to its abatement by whatever means; or
 - iii. No more than twenty dollars (\$20) per square foot of cultivation or cannabis use area for the first offense; no more than thirty dollars (\$30) per square foot of the cultivation or cannabis use area for the second offense; and no more than fifty dollars (\$50) per square foot of the cultivation or cannabis use area for the third offense.
 - iv. In the event that the use or structure in violation may be permitted with an appropriate permit, a minimum of ten (10) times and up to a maximum of fifty (50) times the amount of the standard fee for every required approval, review and permit.
 - v. The penalty shall be imposed via the administrative process set forth in this Section, as provided in Government Code section 53069.4, or may be imposed by the court, if the violation requires court enforcement without an

administrative process. Acts, omissions, or conditions in violation of this Section that continue, exist, or occur on more than one day constitute separate violations on each day.

4. Three Strikes Penalty. Upon receipt of any combination of three (3) administrative citations, verified violations, or hearing officer determinations of violation of any of the permit requirements or standards issued to the owner or operator at any property or combination of properties of the same owner or operator within a two-year period, the permit for a cannabis operation is hereby automatically nullified, voided or revoked, subject to prior notice and to appeal. Appeals shall be filed within ten (10) days of the notice of revocation. Upon revocation, an application to reestablish a cannabis operation at the subject property shall not be accepted for a minimum period of two (2) years.
5. Liens. Whenever the amount of any civil penalty imposed pursuant to this Section has not been satisfied in full within ninety days and has not been timely appealed to the Superior Court in accordance with Government Code section 53069.4, subdivision (b), or if appealed, such appeal has been dismissed or denied, this obligation may be enforced as a lien against the real property on which the violation occurred.
 - i. The lien provided herein shall have no force and effect until recorded with the County Recorder. Once recorded, the administrative order shall have the force and effect and priority of a judgment lien governed by the provisions of Code of Civil Procedure section 697.340, and may be extended as provided in Code of Civil Procedure sections 683.110 to 683.220, inclusive.
 - ii. Interest shall accrue on the principal amount of the lien remaining unsatisfied pursuant to the law applicable to civil money judgments.
 - iii. Prior to recording any such lien, the agency having jurisdiction shall prepare and file with the clerk of the board of supervisors a report stating the amounts due and owing.
 - iv. The clerk of the board of supervisors will fix a time, date, and place for the board of supervisors to consider the report and any protests or objections to it. The clerk of the board of supervisors shall serve the owner of the property with a hearing notice not less than ten days before the hearing date. The notice must set forth the amount of the delinquent administrative penalty that is due. Notice must be delivered by first class mail, postage prepaid, addressed to the owner at the address shown on the last equalized assessment roll or as

otherwise known. Service by mail is effective on the date of mailing and failure of owner to actually receive notice does not affect its validity.

- v. Any person whose real property is subject to a lien pursuant to this Section may file a written protest with the clerk of the board of supervisors and/or may protest orally at the board of supervisors meeting. Each written protest or objection must contain a description of the property in which the protesting party is interested and the grounds of such protest or objection.
 - vi. At the conclusion of the hearing, the board of supervisors will adopt a resolution confirming, discharging, or modifying the lien amount.
 - vii. Within thirty days following the board of supervisors' adoption of a resolution imposing a lien, the agency having jurisdiction will file same as a judgment lien in the Sonoma County Recorder's Office.
 - viii. Once the county receives full payment for outstanding principal, penalties, and costs, the clerk of the board of supervisors will either record a notice of satisfaction or provide the owner with a notice of satisfaction for recordation at the Sonoma County Recorder's Office. This notice of satisfaction will cancel the county's lien under this section.
 - ix. The lien may be foreclosed and the real property sold, by the filing of a complaint for foreclosure in a court of competent jurisdiction, and the issuance of a judgment to foreclose. There shall be no right to trial by jury. The county shall be entitled to its attorney's fees and costs.
6. Removal of Violation. The penalties imposed by this Section may not apply if the agency having jurisdiction establishes that within five (5) days after the date of mailing or hand delivery of notice of the existence of the violation, the person removed from the property the cannabis, the cannabis equipment, the use, or structure which constituted that violation.
7. Liability for Costs and Fees. In any enforcement action brought pursuant to this Section, whether by administrative or judicial proceedings, each person who causes, permits, suffers, or maintains the unlawful cannabis use shall be liable for all costs incurred by the County, including, but not limited to, administrative costs, and any and all costs incurred to undertake, or to cause or compel any responsible person to undertake, any abatement action in compliance with the requirements of this Section. In any action by the agency having jurisdiction to abate unlawful cannabis uses under this Section, whether by administrative or judicial proceedings, the prevailing

party shall be entitled to a recovery of the reasonable attorney's fees incurred. Recovery of attorneys' fees under this subdivision shall be limited to those actions or proceedings in which the County elects, at the initiation of that action or proceeding, to seek recovery of its own attorney's fees. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorney's fees incurred by the County in the action or proceeding.

26-88-254 Cannabis Cultivation – Commercial Medical

- (a) **Purpose.** This section establishes development criteria and operating standards for commercial medical cannabis cultivation activities as allowed by the base zone in compliance with Section 26-88-250 Commercial Medical Cannabis Uses.
- (b) **Applicability.** This section shall apply to all commercial medical cannabis cultivation activities, including but not limited to, outdoor, indoor and mixed light or greenhouse environments and associated drying, curing, grading, and trimming facilities. Medical cannabis cultivation does not include operations that manufacture cannabis products such as oils, tinctures, or edibles which are classified separately. Commercial medical cannabis cultivation operations shall comply with the following development criteria and operating standards in addition to the requirements of Section 26-88-250 Commercial Medical Cannabis Uses.
- (c) **Permit Requirements.** Commercial medical cannabis cultivation shall be subject to the land use permit requirements as shown in Table 1A-D Allowed Cannabis Uses and Permit Requirements. Zoning permits for outdoor cultivation areas shall be issued by the Agricultural Commissioner. Zoning permits and use permits for all other cultivation activities shall be issued by PRMD. New structures and new roads or conversion of existing structures to cannabis cultivation shall be subject to design review.
- (d) **Limitations on Use.** All cultivation shall be conducted and maintained in compliance with this Section and the Best Management Practices for Cannabis Cultivation issued by the Agricultural Commissioner. The Agricultural Commissioner shall determine the applicable best management practices and shall enforce the provisions of this section for outdoor cultivation areas and management of pesticides and fertilizers for all cultivation types. All structures used in cultivation shall be subject to permits issued by the Permit and Resource Management Department and other agencies having jurisdiction and shall be conducted and maintained in compliance with this Chapter.
- (e) **Multiple Permits.** Multiple cultivation permits may be issued to a single person or entity as defined herein, provided that the total combined cultivation area within the County does not exceed one acre. Any natural person who owns or controls any interest, directly or indirectly, in a firm, partnership, joint venture, association, cooperative, collective, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, shall be collectively considered a single person for the purposes of this standard.
- (f) **Development Criteria.**
 - (1) **Number of Facilities.** No more than one cottage cultivation type may be permitted in the residential and resource zones. No more than one cultivation

use/operator may be approved per contiguous parcel ownership, except in the agricultural, and industrial zones. In the agricultural and industrial zones, multiple zoning permits may be issued for multi-tenant operations on a single parcel provided that the minimum parcel size is met for the total combined cultivation area and the total combined cultivation area does not exceed the maximum area allowed for the type of cultivation in compliance with Table 1A-D *Allowed Cannabis Uses and Permit Requirements* (i.e. Outdoor maximum is 43,560 sf; Indoor/Mixed Light maximum is 22,000 sf).

- (2) **Square Footage Limitations.** The total combined square footage of the cultivation area shall not exceed the maximum size thresholds as defined in Table 1A-D *Allowable Cannabis Uses and Permit Requirements*. Structures and areas where cannabis is processed, dried, aged, stored, trimmed, packaged or weighed and areas where equipment is stored and washed shall be limited to the on-site cultivation use only. No cannabis nurseries shall exceed one acre in size.
- (3) **Property Setbacks- Outdoor.** Outdoor cultivation areas and all associated structures shall not be located in the front yard setback area and shall be screened from public view. Outdoor cultivation areas shall not be visible from a public right of way. Outdoor cultivation areas shall be setback a minimum of 100 feet from property lines and a minimum of 300 feet from occupied residences and businesses on surrounding properties. Outdoor cultivation sites and greenhouses/ mixed light structures shall be setback a minimum of 600 feet from a school providing education to K-12 grades, a public park, childcare center, or an alcohol or drug treatment facility. The distance shall be measured in a straight line from the property line of the protected site to the closest property line of the parcel with the cannabis cultivation use.
- (4) **Property Setbacks- Indoor.** All structures used for indoor cultivation and all structures used for drying, curing, grading or trimming and all indoor cultivation structures shall comply with the setbacks for the base zone and any applicable combining zone. Structures associated with the cultivation shall not be located in the front yard setback area and shall be screened from public view. There shall be no exterior evidence of cultivation either within or outside the structure.
- (5) **Property Setbacks- Mixed Light/Greenhouse.** Mixed light structures shall be setback a minimum of 100 feet from property lines and a minimum of 300 feet from occupied residences and businesses on surrounding properties in agricultural, resource and residential zones. Mixed Light/greenhouses in industrial zones shall be setback 300 feet from occupied residences on surrounding properties. Greenhouses/mixed light structures in all zones shall be setback a minimum of 600 feet from a school providing education to K-12 grades, a public park, childcare center, or an alcohol or drug treatment facility. The

distance shall be measured in a straight line from the property line of the protected site to the closest property line of the parcel with the cannabis cultivation use.

- (6) **Building Requirements.** All structures used in commercial cultivation, including greenhouses require a building permit and shall comply with all applicable sections of the County Code. Cultivation uses that provide access to the public including, but not limited to, employees, vendors, contractors, business partners, members, customers or patients shall meet County Code requirements for accessibility including accessible parking, accessible path of travel, restrooms, and washing facilities.
- (7) **Biotic Resources.** Proposed cultivation operations, including all associated structures, shall require a biotic assessment at the time of application that demonstrates that the project is not located within, and will not impact sensitive or special status species habitat, unless a use permit is obtained. Any proposed cultivation operation, including all associated structures, located within adopted federal critical habitat areas must have either all appropriate permits from the applicable state and federal agencies with jurisdiction over the listed species, or expert biological studies supporting the unequivocal conclusion that no such permits are required.

There shall be no tree removal or timber conversions to accommodate cultivation sites, unless a use permit is obtained. Outdoor above ground cultivation areas and all indoor or mixed light cultivation and related processing facilities shall be located outside the Riparian Corridor Stream Conservation Areas (RC combining zone) and outside any designated Biotic Habitat area (BH combining zone). Outdoor in-ground cultivation areas shall conform to the agricultural Riparian Corridor setback set forth in Section 26-64-050.

- (8) **Cultural and Historic Resources.** Cultivation sites shall avoid impacts to significant cultural and historic resources by complying with the following standards. Sites located within a Historic District shall be subject to review by the Landmarks Commission, unless otherwise exempt, consistent with Section 26-68-020. Cultivation operations involving ground disturbing activities, including but not limited to, new structures, roads, water storage, trenching for utilities, water, wastewater, or drainage systems shall be subject to design review and referral to the Northwest Information Center and local tribes for consultation. A cultural resource survey and on-site monitor during ground disturbing activities may be required to demonstrate cultural and historic resources are protected.

The following minimum standards shall apply to cultivation permits involving ground disturbance. All grading and building permits shall include the following notes on the plans:

If paleontological resources or prehistoric, historic-period or tribal cultural resources are encountered during ground-disturbing work at the project location, all work in the immediate vicinity shall be halted and the operator must immediately notify the agency having jurisdiction of the find. The operator shall be responsible for the cost to have a qualified paleontologist, archaeologist and tribal cultural resource specialist under contract to evaluate the find and make recommendations in a report to the agency having jurisdiction.

Paleontological resources include fossils of animals, plants or other organisms. Historic-period resources include backfilled privies, wells, and refuse pits; concrete, stone, or wood structural elements or foundations; and concentrations of metal, glass, and ceramic refuse. Prehistoric and tribal cultural resources include obsidian and chert flaked-stone tools (e.g., projectile points, knives, choppers), midden (culturally darkened soil containing heat-affected rock, artifacts, animal bone, or shellfish remains), stone milling equipment, such as mortars and pestles, and certain sites features, places, cultural landscapes, sacred places and objects with cultural value to a California Native American tribe.

If human remains are encountered, work in the immediate vicinity will stop and the operator shall notify the agency having jurisdiction and the Sonoma County Coroner immediately. At the same time, the operator shall be responsible for the cost to have a qualified archaeologist under contract to evaluate the discovery. If the human remains are determined to be of Native American origin, the Coroner must notify the Native American Heritage Commission within 24 hours of this identification.

- (9) Farmland Protection.** Where a commercial cultivation site is located within an Agricultural Zone (LIA, LEA, DA), the primary use of the parcel shall remain in agricultural use pursuant to General Plan Policy AR-4a. Indoor and mixed light cultivation facilities shall not remove agricultural production within Important Farmlands, including Prime, Unique and Farmlands of Statewide Importance as designated by the state Farmland Mapping and Monitoring Program, but may offset by relocating agricultural production on a 1:1 ratio.

If the facility is located on a site under a Land Conservation Act (Williamson Act) contract, the use must be listed as a compatible use in the Sonoma County Uniform Rules for Agricultural Preserves and Farmland Security Zones, and allowed by the type of contract and approved Land Conservation Plan. An

application for modification of the contract and Land Conservation Plan may be required.

- (10) **Fire Code Requirements.** The operator shall prepare and implement a Fire Prevention Plan for construction and ongoing operations and obtain an Operational Permit from the Fire and Emergency Services Department. The Fire Prevention Plan shall include, but not be limited to: emergency vehicle access and turn-around at the facility site(s), vegetation management and fire break maintenance around all structures.

Grading and Access. Cultivation sites shall be prohibited on natural slopes steeper than 15 percent, as defined by County Code Chapter 11 section 16-020. Grading shall be subject to a grading permit in compliance with Chapter 11 of the County Code.

- (11) **Hazardous Materials Sites.** No cannabis operation shall be sited on a parcel listed as a hazardous materials site compiled pursuant to Government Code Section 65962.5, unless a use permit is required.
- (12) **Lighting.** All lighting shall be fully shielded, downward casting and not spill over onto structures, other properties or the night sky. All indoor and mixed light operations shall be fully contained so that little to no light escapes. Light shall not escape at a level that is visible from neighboring properties between sunset and sunrise.
- (13) **Runoff and Stormwater Control.** Runoff containing sediment or other waste or by-products shall not be allowed to drain to the storm drain system, waterways, or adjacent lands. Prior to beginning grading or construction, the operator shall prepare and implement a storm water management plan and an erosion and sediment control plan, approved by the agency having jurisdiction. The plan must include best management practices for erosion control during and after construction and permanent drainage and erosion control measures pursuant to Chapter 11 of the County Code. . All cultivation operators shall comply with the Best Management Practices for Cannabis Cultivation issued by the Agricultural Commissioner for management of wastes, water, erosion control and management of fertilizers and pesticides.
- (14) **Security and Fencing.** A Site Security Plan shall be required subject to review and approval by the Permit and Resource Management Department. All Site Security Plans shall be held in a confidential file, exempt from disclosure as a public record pursuant to Government Code Section 6255(a). Security cameras shall be motion-sensored and be installed with capability to record activity beneath the canopy but shall not be visible from surrounding parcels and shall

not be pointed at or recording activity on surrounding parcels. Surveillance video shall be kept for a minimum of 30 days. Video must use standard industry format to support criminal investigations. Motion-sensor lighting and alarms shall be installed to insure the safety of persons and to protect the premises from theft. All outdoor and mixed light cultivation sites shall be screened by native, fire resistant vegetation and fenced with locking gates consistent with height limitations of Section 26-88-030. Fencing shall be consistent with the surrounding area and shall not diminish the visual quality of the site or surrounding area. Razor wire and similar fencing is discouraged and shall not be permitted in residential zones. Weapons and firearms at the cultivation site are prohibited. Security measures shall be designed to ensure emergency access in compliance with fire safe standards. All structures used for cultivation shall have locking doors to prevent free access.

(g) Operating Standards.

- (1) Compliance Inspections.** All cultivation sites shall be subject to on-site compliance inspections by agencies having jurisdiction. The inspection shall be conducted during regular business hours, with at least 24-hours' notice.
- (2) Residency Requirement.** Within residential zoning districts the operator shall reside full-time on the premises where the cultivation is occurring.
- (3) Air Quality and Odor.** All indoor, greenhouse and mixed light cultivation operations and any drying, aging, trimming and packing facilities shall be equipped with odor control filtration and ventilation system(s) to control odors humidity, and mold.. All cultivation sites shall utilize dust control measures on access roads and all ground disturbing activities.
- (4) Energy Use.** Electrical power for indoor cultivation and mixed light operations including but not limited to illumination, heating, cooling, and ventilation, shall be provided by any combination of the following: (i) on-grid power with 100% renewable source; (ii) on-site zero net energy renewable source; or (iii) purchase of carbon offsets of any portion of power not from renewable sources. The use of generators is prohibited, except for portable temporary use in emergencies only. .
- (5) Hazardous Materials.** All cultivation operations that utilize hazardous materials shall comply with applicable hazardous waste generator, underground storage tank, above ground storage tanks and AB 185 (hazardous materials handling) requirements and maintain any applicable permits for these programs from the Fire Prevention Division, Certified Unified Program Agency (CUPA) of Sonoma County Fire and Emergency Services Department or Agricultural Commissioner.

- (6) **Hours of Operation.** Indoor cultivation activities may be conducted seven days a week, 24-hours per day as needed. Outdoor processing activities, deliveries and shipping shall be limited to the hours from 8 am to 5 pm, unless a use permit is obtained.
- (7) **Noise Limits.** Cultivation operations shall not exceed the General Plan Noise Standards Table NE-2, measured in accordance with the Sonoma County Noise Guidelines.
- (8) **Occupational Safety.** Cultivators shall comply with all applicable federal, state, and local laws and regulations governing California Agricultural Employers, which may include: federal and state wage and hour laws, CAL/OSHA, OSHA and the California Agricultural Labor Relations Act.
- (9) **Waste Management.** A Waste Management Plan addressing the storing, handling and disposing of all waste by-products of the cultivation and processing activities in compliance with the Best Management Practices issued by the Agricultural Commissioner shall be submitted for review and approval by the agency having jurisdiction. This plan shall characterize the volumes and types of waste generated, and the operational measures that are proposed to manage and dispose, or reuse the wastes in compliance with Best Management Practices and County standards.

All garbage and refuse on this site shall be accumulated or stored in non-absorbent, water-tight, vector resistant, durable, easily cleanable, galvanized metal or heavy plastic containers with tight fitting lids. No refuse container shall be filled beyond the capacity to completely close the lid. All garbage and refuse on this site shall not be accumulated or stored for more than seven calendar days, and shall be properly disposed of before the end of the seventh day in a manner prescribed by the Solid Waste Local Enforcement Agency. All waste, including but not limited to refuse, garbage, green waste and recyclables, must be disposed of in accordance with local and state codes, laws and regulations. All waste generated from cannabis operations must be properly stored and secured to prevent access from the public.

- (10) **Waste Water Discharge.** A waste water management plan shall be submitted identifying the amount of waste water, excess irrigation and domestic wastewater anticipated, as well as disposal. All cultivation operations shall comply with the Best Management Practices issued by the Agricultural Commissioner and shall submit verification of compliance with the Waste Discharge Requirements of the applicable Regional Water Quality Control Board, or waiver thereof. Excess irrigation water or effluent from cultivation activities shall be directed to a sanitary

sewer, septic, irrigation, greywater or bio-retention treatment systems. If discharging to a septic system, a system capacity evaluation by a qualified sanitary engineer shall be included in the management plan. All domestic waste for employees shall be disposed of in a permanent sanitary sewer or on-site septic system demonstrated to have adequate capacity.

- (11) Water Supply.** An on-site water supply source adequate to meet all on site uses on a sustainable basis shall be provided. Trucked water shall not be allowed, except as noted below and for emergencies requiring immediate action as determined by the director. The onsite water supply shall be considered adequate with documentation of any one of the following sources:
- a. **Municipal Water:** The public water supplier providing water service to the site has adequate supplies to serve the proposed use.
 - b. **Recycled Water:** The use of recycled process wastewater from an onsite use or connection to a municipal recycled water supply for the cultivation use, provided that an adequate on-site water supply is available for employees and other uses.
 - c. **Surface Water:** A diversion permit issued by the State Water Resources Control Board of an existing legal water right and a Streambed Alteration Agreement issued by California Fish and Wildlife, if applicable.
 - d. **Well Water:**
 - 1. The site is located in Groundwater Availability Zone 1, 2 or 3 and not within an area for which a Groundwater Management Plan has been adopted or within a high or medium priority basin as defined by the State Department of Water Resources; or
 - 2. Within Groundwater Availability Zone 4 or area for which a Groundwater Management Plan has been adopted or designated priority basin, the proposed use would:
 - a. The proposed use would not result in a net increase in water use on site through implementation of water conservation measures, rainwater catchment or recycled water reuse system, water recharge project, or participation in a local groundwater management project; or
 - b. Trucked recycled water may be considered for the cultivation area with a use permit, provided that adequate on-site water supplies are available for employees and other uses: or

- c. A qualified professional prepares a hydro-geologic report acceptable to the review authority providing supporting data and analysis and certifying that the onsite groundwater supply is adequate to meet the proposed uses and cumulative projected land uses in the area on a sustained basis, and that the operation will not:
 - i. result in or exacerbate an overdraft condition in basin or aquifer;
 - ii. result in reduction of critical flow in nearby streams; or
 - iii. result in well interference at offsite wells.

(12) Groundwater Monitoring: Water wells used for cultivation shall be equipped with a meter and sounding tube or other water level sounding device and marked with a measuring reference point. Water meters shall be calibrated at least once every five years. Static water level and total quantity of water pumped shall be recorded quarterly and reported annually. Static water level is the depth from ground level to the well water level when the pump is not operating after being turned off. Static water level shall be measured by turning the pump off at the end of the working day and recording the water level at the beginning of the following day before turning the pump back on. Groundwater monitoring reports shall be submitted annually to the Permit and Resource Management Department, Project Review Division by January 31 of each year. The annual report shall show a cumulative hydrograph of static water levels and the total quarterly quantities of water pumped from well(s) used in processing.

(13) Groundwater Monitoring Easement: Prior to the issuance of any permit an Easement is required to be recorded for this project to provide Sonoma County personnel access to any on-site water well serving this project and any required monitoring well to collect water meter readings and groundwater level measurements. Access shall be granted Monday through Friday from 8:00 a.m. to 5:00 p.m. All Easement language is subject to review and approval by PRMD Project Review staff and County Counsel prior to recordation.

Sec. 26-88-256. - Medical cannabis dispensary uses.

- (a) **Purpose.** This section provides the location and operational standards for any medical cannabis dispensary within the unincorporated county in order to promote the health, safety, and general welfare of its residents and businesses.
- (b) **Applicability.** Medical cannabis dispensaries shall be permitted only in compliance with the requirements of this section, and all other applicable requirements of the underlying zoning district.
- (c) **Permit Requirements.** A use permit issued in compliance with Sections 26-92-070 and 26-92-080 shall be required for any medical cannabis dispensary. Medical cannabis dispensaries shall also be subject to permit requirements and regulations established by the Sonoma County Department of Health Services. Additionally, medical cannabis dispensaries must comply with all other applicable building codes and requirements, including accessibility requirements.
- (d) **Limit on Number of Dispensaries.** No more than nine (9) medical cannabis dispensaries shall be permitted within the unincorporated county at any one time.
- (e) **Compliance with Operating Plan and Conditions Required.** A medical cannabis dispensary shall submit, as a part of the use permit application, an operating plan that specifies the manner in which operations will be handled and security provided, and which details the number of employees, number of patients, hours and days of operation allowed and approved. The operating plan shall provide that the dispensary shall require, at a minimum, a doctor's written recommendation in compliance with state law, as well as a photo identification for any person entering the site. Any medical cannabis dispensary approved under this section shall be operated in conformance with the approved operating plan and shall meet any specific, additional operating procedures and measures as may be imposed as conditions of approval to ensure that the operation of the dispensary is consistent with protection of the health, safety and welfare of the community, qualified patients, and primary caregivers, and will not adversely affect surrounding uses.
- (f) **Limited Term.** Use permits for medical cannabis dispensaries shall be limited-term, and shall be issued for a maximum period of one year.
- (g) **Exercise and Renewal of Permit.** Use permits for medical cannabis dispensaries shall be exercised only by the applicant and shall expire upon termination of the business for which it was issued, or upon sale or transfer of ownership of the medical cannabis dispensary. All use permits issued for a medical cannabis dispensary shall include the following provision: "This use permit shall expire upon change of tenancy or sale or transfer of the business or property." Any use permit that is abandoned for a period of six (6) months shall automatically expire, and shall become null and void with no further action required on the part of the county. A use permit renewal may be administratively approved by the planning director only if all of the following findings are made:

- (1) The use has been conducted in accordance with this section, with the dispensary's approved operating plan, and with all applicable use permit conditions of approval;
 - (2) The business for which the use permit was approved has not been transferred to another owner or operator;
 - (3) There are no outstanding violations of health, safety, or land use.
- (h) **Revocation or Modification.** A use permit approved under this section may be revoked or modified at any time following public hearing in accordance with [Section 26-92-120](#).
- (i) **Signed Affidavit.** The property owner and applicant, if other than the property owner, shall sign the application for the use permit, and shall include affidavits agreeing to abide by and conform to the conditions of the use permit and all provisions of the Sonoma County Code pertaining to the establishment and operation of the medical cannabis dispensary use, including, but not limited to, the provisions of this section. The affidavit(s) shall acknowledge that the approval of the medical cannabis dispensary use permit shall in no way permit any activity contrary to the Sonoma County Code, or any activity which is in violation of any applicable laws.
- (j) **Location Requirements.**
 - (1) A medical cannabis dispensary shall not be established on any parcel containing a dwelling unit used as a residence, nor within one hundred feet (100') of a residential zoning district.
 - (2) A medical cannabis dispensary shall not be established within six hundred feet (600') of any other medical cannabis dispensary, nor within five hundred feet (500') from a smoke shop or similar facility selling drug paraphernalia.
 - (3) A medical cannabis dispensary shall not be established within six hundred feet (600') from any public or private school, park, drug or alcohol treatment facility.
 - (4) Notwithstanding, the subsections (j)(1)—(2) may be waived by the decision-maker when the applicant can show that an actual physical separation exists between land uses or parcels such that no off-site impacts could occur.
- (k) **Operating Standards.** The following are the minimum development criteria and operational standards applicable to any medical cannabis dispensary use:
 - (1) The building in which the dispensary is located shall comply with all applicable local, state and federal rules, regulations, and laws including, but not limited to, building codes and accessibility requirements;
 - (2) The dispensary shall provide adequate security on the premises, including lighting and alarms, to insure the safety of persons and to protect the premises from theft. The applicant shall submit a security plan for review and approval by PRMD. The Security Plan shall remain confidential.
 - (3) The site plan, circulation, parking, lighting, facility exterior, and any signage shall be subject to design review committee review and approval. The planning director may waive this requirement where the applicant can demonstrate that existing facilities, including parking, lighting and landscaping, already meet the requirements of this section;

- (4) No exterior signage or symbols shall be displayed which advertises the availability of cannabis, nor shall any such signage or symbols be displayed on the interior of the facility in such a way as to be visible from the exterior;
- (5) No person shall be allowed onto the premises unless they are an employee, vendor or contractor of the dispensary, a primary caregiver, and/or a qualified patient or an employee of an agency having jurisdiction monitoring or investigating the terms of regulatory compliance. If the dispensary denies entry for monitoring and inspection to any employee of an agency having jurisdiction, the dispensary may be closed. In strict accordance with California Health and Safety Code Section 11362.5 et seq. no person under the age of eighteen (18) shall be allowed on the dispensary site. All persons entering the site shall present a photo identification and shall establish proof of doctor's recommendation except as representing a regulatory agency. The operating plan submitted as a part of the use permit application shall specify how this provision will be complied with and enforced;
- (6) No dispensary shall hold or maintain a license from the State Department of Alcoholic Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. No alcoholic beverages shall be allowed or consumed on the premises;
- (7) An exhaust and ventilation system shall be utilized to prevent off-site odors;
- (8) No dispensary shall conduct or engage in the commercial sale of any product, good or service unless otherwise approved by the use permit. A dispensary may sell live starter plants, clones and seeds from qualified nurseries, but shall not cultivate or clone cannabis. A dispensary may sell manufactured cannabis, including edible products, and vaporizing devices if allowed by a permit issued by the Department of Health Services. Not more than ten percent (10%) of the floor area, up to a maximum of fifty (50) square feet may be devoted to the sale of incidental goods for personal cultivation but shall not include clothing, posters or other promotional items.
- (9) No cannabis shall be smoked, ingested or otherwise consumed on the premises. The term "premises" includes the actual building, as well as any accessory structures, parking areas, or other immediate surroundings.
- (10) No dispensary may increase in size without amending the use permit. The size limitation shall be included in the operational plan required by [26-88-126\(e\)](#), of this section;
- (11) Parking must meet the requirements of [Section 26-86-010](#).
- (12) Operating days and hours shall be limited to Monday through Saturday from 7:00 a.m. to 7:00 p.m., including deliveries, or as otherwise allowed by the use permit. Operating hours may be further restricted through the use permit process where needed to provide land use compatibility.

(Ord. No. 5967, § I, 1-31-2012; Ord. No. 5748 § 2, 2007; Ord. No. 5715 § 2, 2007.)

Section 26-88-258 Cannabis Cultivation – Personal

(a) **Purpose.** This section establishes development criteria and operating standards for personal cannabis cultivation for medical or adult use. Cultivation of cannabis for personal use shall be subject to the following standards and limitations as allowed in the base zone in compliance with Section 26-88-250. These standards shall apply to any cannabis growing environment including, but not limited to, outdoor, mixed light/greenhouse or indoor environments.

- 1) **Residency Requirement.** Cultivation of cannabis for personal use is limited to parcels with a residence and a full-time resident on the premises where the cultivation is occurring.
- 2) **Maximum Personal Cultivation.** Cultivation of cannabis for personal use is limited to no more than 6 plants and no more than 100 square feet per residence.
- 3) **Prohibition of Volatile Solvents.** The use of volatile solvents as defined herein to manufacture cannabis products is prohibited.
- 4) **Outdoor Personal Cultivation.** Cannabis plants shall not be located in front and side yard setback areas and shall not be visible from a public right of way. Outdoor cannabis cultivation is prohibited on parcels with multi-family units or in the medium and high density residential zones (R2 and R3).
- 5) **Indoor and Mixed-Light Personal Cultivation.**
 - i. Indoor and mixed light personal cultivation must be contained within an enclosed accessory structure, greenhouse or garage. Cultivation within a structure approved for residential use as set forth in Chapter 7 of the County Code is prohibited, unless there is no other feasible alternative location.
 - ii. All structures (including greenhouses) used for cultivation must be legally constructed with all applicable permits such as grading, building, electrical, mechanical and plumbing.
 - iii. All structures associated with the cultivation shall not be located in the front yard setback area and shall adhere to the setbacks stated within the base zone. There shall be no exterior evidence of cannabis cultivation. Greenhouses shall be screened from the public right of way.
 - iv. All structures used for cultivation shall have locking doors or gates to prevent free access. All cultivation structures shall be equipped with odor control

filtration and ventilation systems adequate to prevent an odor, humidity, or mold.

- v. Light systems shall be fully shielded, including adequate coverings on windows, so as to confine light and glare to the interior of the structure.
- vi. The use of generators is prohibited, except as emergency back-up systems.
- vii. All cultivation operators shall comply with the Best Management Practices for Cannabis Cultivation issued by the Agricultural Commissioner for management of wastes, water, erosion control and management of fertilizers and pesticides.